

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

THOMAS WILLIAM WALLER, JR.,

Plaintiff,

v.

RANJIT S. MANN, JANE DOE MANN, and  
MANNEY TRANSPORT LTD.,

Defendants.

NO.

(Removed from King County Superior  
Court, Case No. 17-2-26183-1 KNT)

**DEFENDANTS RANJIT S. MANN,  
JANE DOE MANN, AND MANNEY  
TRANSPORT LTD.'S NOTICE OF  
REMOVAL**

**DEMAND FOR JURY**

Clerk's Action Required

**TO: Clerk of the United States District Court for the Western District of Washington  
at Seattle:**

1. Defendants Ranjit S. Mann, Jane Doe Mann, and Manney Transport LTD.,  
(hereinafter "Defendants") remove the state court action entitled *Thomas William Waller, Jr.,  
v. Ranjit S. Mann, et al.*, Case No. 17-2-26183-1 KNT, on the docket of the Superior Court  
of the State of Washington, County of King, to this Court pursuant to 28 U.S.C. §§ 1332,  
1441, 1446. In support of this Notice of Removal, Defendants state as follows:

DEFENDANTS' NOTICE OF REMOVAL  
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**SCHEER LAW GROUP LLP**  
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SEATTLE, WA 98101  
P: (206) 262-1200 F: (206) 223-4065

1 **I. STATE COURT ACTION**

2 2. The State Court action to be removed is *Thomas William Waller, Jr., v. Ranjit*  
3 *S. Mann, et al.*, Case No. 17-2-26183-1 KNT, King County Washington Superior Court. See  
4 Complaint, Declaration of Dennis Woods (“Woods Decl.”), Exhibit 1.  
5

6 **II. TIME FOR REMOVAL**

7 3. Plaintiff filed this action in King County Superior Court on October 5, 2017.  
8 Plaintiff served the Summons and Complaint on October 9, 2017. Woods Decl., Exhibit 1.  
9 This Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b).

10 **III. BASIS FOR REMOVAL**

11 4. A party may seek removal of a State Court action where the amount in  
12 controversy exceeds \$75,000 and the action is between citizens of a State and citizens or  
13 subjects of a foreign state. 28 U.S.C. § 1332(a)(2).  
14

15 **A. Timeliness**

16 5. This Removal is timely because Defendants have filed this Removal within  
17 30 days of receipt of the Complaint and Summons. 28 U.S.C. § 1446(b). Plaintiff served the  
18 Summons and Complaint on Defendant Manney’s agent authorized to receive service of  
19 process on October 9, 2017. Woods Decl, Exhibit 2, Declaration of Service.  
20

21 **B. Amount in Controversy**

22 6. A defendant can establish the amount in controversy by the allegations in a  
23 complaint, or by setting forth facts in the notice of removal that demonstrate the amount in  
24 controversy exceeds \$75,000. *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005).

25 7. It is “facially apparent” from the nature of Plaintiff’s claims alleged that the  
26

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1 amount in controversy exceeds \$75,000, exclusive of interests and costs. Similar damage  
2 allegations in personal injury cases have been held to establish, on their face, that the amount  
3 in controversy exceeds the jurisdictional requirement. See *Campbell v.*  
4 *Bridgestone/Firestone, Inc.*, 2006 U.S. Dist. LEXIS 16113, 2006 WL 707291, at \*3 (E.D. Cal.  
5 Mar. 17, 2006) (holding it facially apparent that amount in controversy was met where  
6 plaintiff alleged several injuries, including head trauma, a broken arm, broken wrist, a deep  
7 laceration to his lower leg as a result of a car accident, and sought damages for wage loss,  
8 property loss, hospital and medical expenses, and loss of earning capacity); *Gebbia v. Wal-*  
9 *Mart Stores, Inc.*, 233 F.3d 880, 883 (5th Cir. 2000) (holding it facially apparent that the  
10 amount in controversy was met in slip-and-fall case by allegations of injuries to wrist, knee,  
11 patella, and back, and alleged damages for medical expenses, physical pain and suffering,  
12 mental anguish and suffering, loss of enjoyment of life, loss of wages and earning capacity,  
13 and permanent disability and disfigurement); *Hammarlund v. C.R. Bard, Inc.*, 2015 WL  
14 5826780, \*2 (C.D. Cal. Oct. 2, 2015) (finding that the amount in controversy exceeded  
15 \$75,000 with allegations of medical expenses, permanent bodily injury, and mental and  
16 physical pain and suffering, even though plaintiff did not seek attorney's fees); accord  
17 *Randle v. SmithKline Beecham Corp.*, 338 F. Supp. 2d 704, 709-712 (S.D. Miss. 2004).

20 8. The face of the Complaint establishes that Plaintiff seeks damages in excess of  
21 \$75,000. Plaintiff alleges that, while operating a motorcycle, he was unable to stop in time to  
22 avoid Defendants' outstretched semi-truck as it turned across his lane, resulting in a violent  
23 collision that threw Plaintiff from his motorcycle, causing severe injuries. As a result of the  
24 accident, Plaintiff is claiming he sustained significant bodily injuries and continues to suffer  
25  
26

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1 personal injury and *disability*, emotional trauma, loss of enjoyment of life, emotional distress,  
2 and other damages in amounts to be proven at trial. Further, Plaintiff claims that he has been  
3 required to seek various medical treatments and will continue to require medical treatments  
4 in the future, and has incurred wage loss, loss of earning capacity, out of pocket expense and  
5 other damages. The face of Plaintiff's Complaint clearly establishes that Plaintiff is seeking  
6 damages in excess of \$75,000.  
7

8 9. Even were it not clear from the face of the complaint, Defendants have clearly  
9 shown that the amount in controversy exceeds \$75,000. Where it is not factually evident  
10 from the complaint that the amount in controversy exceeds \$75,000, the moving party is to  
11 show, by a preponderance of the evidence, that the amount in controversy meets the  
12 jurisdictional requirement. *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090  
13 (9th Cir. 2003); *Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997);  
14 *Del Real v. HealthSouth Corp.*, 171 F. Supp. 2d 1041, 1043 (D. Ariz. 2001) (where state  
15 court complaint does not specify amount in controversy, removing defendant need only  
16 provide evidence establishing that it is more likely than not that the amount in controversy  
17 exceeds the federal jurisdictional requirements; to determine subject matter jurisdiction, the  
18 court may entertain extrinsic evidence, weigh evidence, and if necessary resolve factual  
19 disputes).  
20  
21

22 10. The preponderance of the evidence standard was recently re-affirmed in the  
23 Federal Courts Jurisdiction and Venue Clarification Act of 2011, Pub. L. No. 112-63, 125  
24 Stat. 758. According to the House Report accompanying the bill, "circuits have adopted  
25 differing standards governing the burden of showing that the amount in controversy is  
26

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1 satisfied. The ‘sum claimed’ and ‘legal certainty’ standards that govern the amount in  
2 controversy requirement when a plaintiff originally files in Federal court have not translated  
3 well to removal, where the plaintiff often may not have been permitted to assert in state court  
4 a sum claimed or, if asserted, may not be bound by it.” H.R. Rep. No. 112-10, at 15 (2011).  
5 Accordingly, “the defendants do not need to prove to a legal certainty that the amount in  
6 controversy requirement has been met. Rather, defendants may simply allege or assert that  
7 the jurisdictional threshold has been met.” *Id.* at 16.  
8

9 11. Pursuant to Local Rule W.D. Wash. 101(a), counsel for Defendants has a good  
10 faith belief that Plaintiff seeks damages in excess of the jurisdictional amount in this Court.  
11 The nature and scope of Plaintiff’s injuries alleged, including his alleged disability, emotional  
12 trauma/distress, loss of earning capacity, and need for future medical treatments, more likely  
13 than not greatly exceeds the amount in controversy for the federal jurisdictional  
14 requirements.  
15

16 12. Furthermore, a reasonable person would conclude that Plaintiff is seeking  
17 damages in excess of \$75,000. Plaintiff filed his Complaint in King County Superior Court.  
18 In Washington, the Superior Court has jurisdiction for claims seeking \$100,000 or more  
19 while claims of less than \$100,000 are filed in State District Courts. RCW 3.66.020; CR  
20 101(a).  
21

22 13. Attorneys’ fees and costs of suit may also be considered when determining if  
23 the amount in controversy exceeds \$75,000 for purposes of establishing diversity  
24 jurisdiction. *Bell v. Preferred Life Assurance Soc’y*, 320 U.S. 238, 240 (1943). In his  
25  
26

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1 Complaint, Plaintiff seeks an award for attorneys' fees and costs, disbursements, and  
2 prejudgment interest.

3 14. Based on the above, it is apparent from Plaintiff's Complaint that Plaintiff's  
4 alleged damages exceed \$75,000. Defendants have established that it is more likely than not  
5 that Plaintiff's alleged damages – disability, significant bodily injuries, continuing personal  
6 injury, emotional trauma, loss of enjoyment of life, emotional distress, medical expenses,  
7 future medical treatments, wage loss, loss of earning capacity, out of pocket expense, future  
8 damages, and Plaintiffs' request of attorneys' fees, costs, and interest – exceed \$75,000.

10 **D. There is Complete Diversity Among All Proper Parties**

11 15. The diversity of citizenship requirements of 28 U.S.C. § 1332 are satisfied in  
12 this case.

13 16. Plaintiff's Complaint states that Plaintiff is a resident of King County,  
14 Washington. Woods Decl., Exhibit 1, Complaint at ¶ 1.1.

15 17. Defendant Ranjit S. Mann and Jane Doe Mann, now and at all times material  
16 hereto, have resided in British Columbia, Canada. They are citizens or subjects of Canada  
17 for purposes of diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(2).

18 18. Defendant Manney Transport, LTD., ("Manney") is and at all times material  
19 hereto was a corporation organized and existing under the laws of British Columbia, Canada,  
20 with its principal place of business in Abbotsford, British Columbia, Canada. Manney is a  
21 citizen or subject of Canada for purposes of diversity. 28 U.S.C. § 1332(c)(1).

22 19. In light of the above, there is complete diversity among the parties, and  
23 removal is proper under 28 U.S.C. § 1332(a)(2).

24  
25  
26  
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1       **E. Venue**

2           20.     The United States District Court for the Western District of Washington  
3 includes the County in which the state court action is now pending. The state court action is  
4 currently pending in King County. Thus, this Court is the proper venue for this action  
5 pursuant to 28 U.S.C. § 1441(a).  
6

7                               **IV.     REQUIRED DOCUMENTS**

8           21.     Defendants will promptly file a copy of this Notice with the Clerk of the King  
9 County Superior Court and will give written notice to all adverse parties. 28 U.S.C. §  
10 1446(d).

11           22.     Pursuant to Local Rule W.D. Wash. 101(b), attached are black-and-white  
12 copies of all additional records and proceedings in the State Court, together with counsel's  
13 verification that these are true and complete copies of all records and proceedings. Woods  
14 Decl., Exhibit 6.  
15

16           23.     In accordance with 28 U.S.C. § 1446, attached are the following documents  
17 that have been received by Defendants:

- 18                   a.     Woods Decl., Exhibit 1 – Complaint and Summons;  
19                   b.     Woods Decl., Exhibit 2 - Declaration of Service;  
20                   c.     Woods Decl., Exhibit 3 - Request for Admission to Defendant Ranjit  
21                         S. Mann;  
22                   d.     Woods Decl., Exhibit 4 – Plaintiff's First Request for Production; and  
23                   e.     Woods Decl., Exhibit 5 - Affidavit of Compliance.  
24

25           In addition are the underlying state court documents including the Civil Case  
26

1 Schedule and Notice of Appearance Exhibit 6.

2 **V. JURY DEMAND**

3 24. Defendants have not yet filed their Answer in King County Superior Court.

4 25. As permitted by Fed. R. Civ. P. 38, Fed. R. Civ. P. 81(c)(3), and Local Rules  
5 W.D. Wash. 38(b) and 101(d), Defendants demand a Jury.  
6

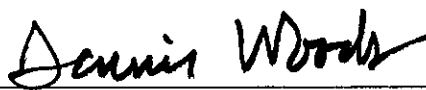
7 **VI. PRESERVATION OF RIGHTS**

8 26. By removing this action to this Court, Defendants do not waive any defenses,  
9 objections or motions available to them under state or federal law. Defendants expressly  
10 reserve the right to move for dismissal of Plaintiff's claims under Rule 12 of the Federal  
11 Rules of Civil Procedure.

12 WHEREFORE, based on the foregoing, Defendants give notice that the above-  
13 captioned matter is hereby removed to the United States District Court for the Western  
14 District of Washington, Seattle Division, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and  
15 hereby request that this Court retain jurisdiction for all further proceedings herein.  
16

17 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of October, 2017.

18 SCHEER LAW GROUP LLP

19  
20 By 

21 Dennis G. Woods, WSBA No. 28713

22 dwoods@scheerlaw.com

23 Kristen F. Barnhart, WSBA No. 51135

24 kbarnhart@scheerlaw.com

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Attorneys for Defendants Ranjit S. Mann, Jane  
Doe Mann, and Manney Transport LTD.

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

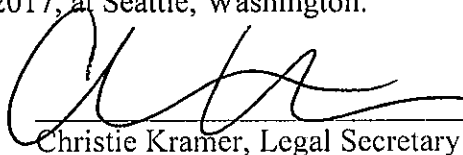
I am employed by the law firm of Scheer Law Group LLP.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On the date set forth below I served the document(s) to which this is attached, in the manner noted on the following person(s):

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
<b><u>CO/Plaintiff</u></b> William A. White Matthew R. White Erin E. White Law Office of William A. White, PLLC 705 South 9th Street Tacoma, WA 98405 bill@williamawhitelaw.com Matt@williamawhitelaw.com erin@williamawhitelaw.com	( ) Via U.S. Mail (X) Via Legal Messenger ( ) Via Facsimile (X) Via E-Mail

DATED this 30<sup>th</sup> day of October, 2017, at Seattle, Washington.

  
Christie Kramer, Legal Secretary

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